

REMARKS/ARGUMENTS

Claims 1-33 were pending in the present application. The present response does not add or cancel any claims, but amends claims 1, 14-16, 20, 22, and 24-33, leaving pending in the present application claims 1-33. Reconsideration of the pending claims is respectfully requested.

I. Objection to the Claims

Claims 22, 32, and 33 are objected to due to certain informalities related to antecedent basis. The claims at issue have been amended for purposes of clarity, and should have sufficient antecedent basis for all recited limitations. Applicants therefore respectfully request that the objection with respect to claims 22, 32, and 33 be withdrawn.

II. Rejection under 35 U.S.C. §103

Claims 1-4, 8, 10, 12, 22, and 23 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Vu* (US 6,381,303) in view of *Van Vlijmen* (US 5,268,953). The independent claims, including claims 1 and 22, have been amended for purposes of clarity, and as amended require modifying the effective width of the x-ray probe beam by tilting the adjustable x-ray source with respect to the sample being evaluated. As stated by the Examiner, *Vu* does not disclose such an adjustable x-ray source.

Van Vlijmen does not make up for this deficiency in *Vu*. The x-ray source of *Van Vlijmen* is mounted on "an x-ray source arm (19)," such that the source is revolved around a sample by "angular adjustment" of the source arm (col. 3, lines 4-57, Fig. 1). The angular rotation of the arm does not modify the effective beam width by tilting the x-ray source as required by Applicants' independent claims. *Van Vlijmen* instead uses separate "adjustable radiation slits" to restrict passage of a portion of the beam (col. 3, lines 4-16). Using adjustable slits as taught in *Van Vlijmen* results in a loss of information due to a restricting of the angular spread of the beam. Modifying the effective width of an x-ray probe beam by tilting the x-ray source as required by Applicants' independent claims does not result in a loss of such information, as the total angular spread of the beam is preserved (see Fig. 8). As *Vu* and *Van Vlijmen* do not teach or suggest each element of independent claims 1 and 22, either alone or in combination, these claims cannot be rendered obvious. Claims 2-4, 8, 10, 12, and 23 depend from these claims and

similarly should not be rendered obvious. Applicants therefore respectfully request that the rejection with respect to claims 1-4, 8, 10, 12, 22, and 23 be withdrawn.

Claims 5-7, 9, 11, 13, 26, 27, and 29-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Vu* in view of *Van Vlijmen* and further in view of *Verman* (US 6,069,934). As discussed above, the independent claims as amended require an adjustable x-ray source that can be tilted with respect to the sample in order to alter the effective width of the x-ray beam. Also as discussed above, such a limitation is not rendered obvious by *Vu* in view of *Van Vlijmen*. *Verman* cannot make up for this deficiency, as *Verman* does not teach or suggest an adjustable x-ray source. *Verman* therefore cannot render the claims obvious, either alone or in any combination with *Vu* and *Van Vlijmen*. Applicants therefore respectfully request that the rejection with respect to claims 5-7, 9, 11, 13, 26, 27, and 29-33 be withdrawn.

Claims 14-19, 24, and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Vu* in view of *Verman*. As discussed above, the independent claims as amended recite limitations not rendered obvious by the combination of *Vu* and *Verman*. As such, neither should the dependent claims be rendered obvious. Applicants therefore respectfully request that the rejection with respect to claims 14-19, 24, and 25 be withdrawn.

III. Amendment to the claims

Unless otherwise specified, amendments to the claims are made for purposes of clarity, and are not intended to alter the scope of the claims or limit any equivalents thereof. The amendments are supported by the specification and do not add new matter to the specification.

IV. Conclusion

In view of the above, it is respectfully submitted that the application is now in condition for allowance. Reconsideration of the pending claims and a notice of allowance is respectfully requested.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-1703, under Order


No. TWI-13310. A duplicate copy of the transmittal cover sheet attached to this Response to Office Action July 18, 2003, is sheet is provided herewith.

Respectfully submitted,

STALLMAN & POLLOCK LLP

Dated: October 1, 2003

By: _____


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